

MEMORANDUM OF UNDERSTANDING AMONG:

16TH Judicial District, District Attorney & City Court Prosecutors

16TH Judicial District, District Judges

16th Judicial District, City Court Judges

as to the

**Prohibited and Permitted Disclosures and Uses of
Information Obtained From and Statements Made in the
Juvenile Justice System During Screening, Assessment/Evaluation and Treatment
by
Case Managers of the District Attorney's Early Intervention Program**

WHEREAS it is widely recognized that youth who are in the juvenile and/or criminal justice systems have a high incidence, when compared to the general population, of behavioral health disorders and needs; and

WHEREAS the Louisiana Legislature has recognized in Juvenile Code Articles 726, 79.1, 791.2 and 791.3, governing Families In Need of Services and Truancy, that self-destructive behaviors by the child and conduct by other family members contribute to the child's harm and warrant court intervention in the family's life so that appropriate services to remedy the family's dysfunction can be secured; and

WHEREAS these statutes seek to secure the effectiveness of the court's intervention by explicitly confirming its duty to obtain the cooperation and coordination of all public institutions or agencies having responsibility to supply services to any member of the family referred to the court; to establish a family service plan binding upon all family members and the appropriate service providers; and to protect the integrity of the family by authorizing adjudication and the imposition of a dispositional judgment requiring participation in a plan of services only after all available voluntary alternatives have been exhausted; and

WHEREAS Courts having jurisdiction over juveniles and their families should work with collaborating agencies to identify youth and monitor treatment plan progress and, to the degree possible, assist the center in obtaining and utilizing a continuum of services and sanctions for identified youth; and

WHEREAS the Louisiana Legislature, pursuant to Juvenile Code, Article 793.1, et seq. has created an Early Intervention Pilot Program in the 16th Judicial District whose purpose shall be to address the underlying causes of behavioral problems and school performance problems related to behavior by pooling existing resources targeted at the child and family through appropriate action by service and treatment providers; and

WHEREAS the Louisiana Legislature, in creation of the Early Intervention Pilot Program, has required community involvement as set forth in Article 793.2 whereby Courts having jurisdiction over children and their families shall work with collaborating agencies to identify youth and monitor treatment plan progress and, when possible, assist program staff in obtaining and utilizing a continuum of services and sanctions for identified youth; and

WHEREAS the courts, in conjunction with the district attorneys, shall direct formal court action on noncompliance cases and integrate the needs of at-risk families with existing court programs and services; and

WHEREAS the Louisiana Legislature recognized that youth charged with offenses have a constitutional right against self incrimination, under both federal and state law; and

WHEREAS this constitutional right is threatened, however, when a youth answers questions and provides information in response to a mental health assessment/screen, which answers may constitute an admission of a criminal or delinquent offense; and

WHEREAS the Louisiana legislature has provided for the following guarantees in Article 808 of the Juvenile Code mandating that “all rights guaranteed to criminal defendants by the Constitution of the United States or the Constitution of Louisiana, except the right to jury trial, shall be applicable in juvenile court proceedings brought under this Title; and further recognizes, in Article 809 of the Juvenile Code, that at every stage of proceedings under this Title, the accused child shall be entitled to counsel; and

WHEREAS, the Legislature has provided in Article 745 of the Juvenile Code the following protections and prohibitions, to wit:

1. An informal family services plan agreement shall not be considered an adjudication. Evidence of the existence of such an agreement shall not be used against the child, the caretaker, or other family member over objection in any adjudication hearing or criminal trial. Such evidence may, however, be used in a disposition hearing in the juvenile court or for the purpose of a pre-sentence investigation after a criminal conviction.
2. Any incriminating statement made by the child, caretaker, or other family member during discussions or conferences incident to the informal family services plan agreement shall not be used against the declarant, over objection, in an adjudication hearing or criminal trial. Any such statement may be reported as the basis for a referral to the local child protection unit of the Department of Social Services in accordance with Article 610, if it causes the intake officer to believe that a child's physical or mental health or welfare is endangered by abuse or neglect. Any such statement may be used in a disposition hearing in the juvenile

court or for the purpose of a presentence investigation after a criminal conviction.

THEREFORE, if furtherance of these goals and in support of the Early Intervention Pilot Program, the parties to this Memorandum of Understanding (MOU), cognizant of and recognizing that early identification and intervention of aggressive, antisocial, or delinquent behaviors and problems in the homes are critical to the prevention of juvenile delinquency in later years, set forth the following terms and conditions of their understanding:

IT IS UNDERSTOOD AND AGREED THAT any information concerning a child that is obtained during any mental health assessment of such child *by a Case Manager of the Early Intervention Program of the District Attorney* shall be used solely for planning and treatment purposes and shall otherwise be confidential and retained in the file of the entity performing such assessment. *Such information may not be disclosed for any court-ordered evaluation or treatment of the child or provision of services to the child. Such information shall not be subject to subpoena or other court process for use in any other proceedings or for any other purpose.*

IT IS UNDERSTOOD AND AGREED THAT any information secured or statement made by a participant during an assessment or evaluation *by a Case Manager of the Early Intervention Program of the District Attorney* and undertaken pursuant to this MOU *shall not be used against the declarant, regardless of objection, in an adjudication hearing or criminal trial, the provisions of Article 745 C of the Juvenile Code notwithstanding with regard to objection. The information also shall not be used in any disposition or sentencing phase after conviction or adjudication.*

IT IS UNDERSTOOD AND AGREED THAT where the Court is petitioned in Early Intervention Participant Cases, disposition and sentencing evaluations may be provided upon Court Order at no costs when funds are available to the Program.

**16th JDC DISTRICT JUVENILE
COURT JUDGES:**

Judge, St. Martin Parish District Court
Date: _____

Judge, Iberia Parish District Court
Date: _____

Judge, St. Mary Parish District Court
Date: _____

16TH JDC CITY COURT JUDGES:

Judge, New Iberia City Court
Date: _____

Judge, Franklin City Court
Date: _____

Judge, Morgan City, City Court
Date: _____

Judge, Jeanerette City Court

Date: _____

Judge, Breaux Bridge City Court

Date: _____

16th JDC DISTRICT ATTORNEY

J. Phil Haney, District Attorney

Date: _____

16TH JDC CITY COURT PROSECUTORS:

New Iberia City Court

Date: _____

Franklin City Court

Date: _____

Morgan City, City Court

Date: _____

Jeanerette City Court

Date: _____

Breaux Bridge City Court

Date: _____